

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0289-MWD-E **TCEQ ID:** RN102739349 **CASE NO.:** 32803

RESPONDENT NAME: Town of Ponder

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Ponder Wastewater Treatment Plant, approximately 2,500 feet southeast of the intersection of Farm-to-Market ("FM") Road 2499 and FM Road 156, approximately 1,200 feet east of FM Road 156 and 1,600 feet south of FM Road 2499, Denton County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on July 16, 2007. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, R-04, (817) 588-5890; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468
Respondent: The Honorable Jeff Vardell, Mayor, Town of Ponder, Post Office Box 297, Ponder, Texas 76259
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 1, 2007</p> <p>Date of NOE Relating to this Case: February 16, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. One violation was documented.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11287003, Effluent Limitations and Monitoring Requirements, Nos. 1 and 2, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$4,500</p> <p>Total Deferred: \$900 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,600</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with TPDES Permit No. 11287003, Effluent Limitations and Monitoring Requirements.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	26-Feb-2007	Screening	27-Feb-2007	EPA Due	
	PCW	1-Mar-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Town of Ponder		
Reg. Ent. Ref. No.	RN102739349		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	32803	No. of Violations	1
Docket No.	2007-0289-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Jorge Ibarra, P.E.
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/> X	(mark with x)

Notes

Total EB Amounts **Subtotal 6**
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date: 27-Feb-2007

Docket No. 2007-0289-MWD-E

PCW

Respondent Town of Ponder

Policy Revision 2 (September 2002)

Case ID No. 32803

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102739349

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	10	50%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 50%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent was issued one NOV with the same/similar type of violations and self-reported nine months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

Screening Date 27-Feb-2007

Docket No. 2007-0289-MWD-E

PCW

Respondent Town of Ponder

Policy Revision 2 (September 2002)

Case ID No. 32803

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102739349

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11287003, Effluent Limitations and Monitoring Requirements, Nos. 1 and 2, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits (see attached table).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH3-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total Suspended Solids ("TSS"), flow, and chlorine residual values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

151 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended based on the months the maximum permitted limits were exceeded (12/05, 02/06, 03/06, 04/06, and 10/06).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$192

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

Economic Benefit Worksheet

Respondent Town of Ponder
Case ID No. 32803
Reg. Ent. Reference No. RN102739349
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	1-Dec-2005	1-Nov-2007	1.9	\$192	n/a	\$192

Notes for DELAYED costs

Estimated cost to provide additional oversight and sampling which may have alleviated or prevented the noncompliance. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$192

Compliance History

Customer/Respondent/Owner-Operator: CN600704746 TOWN OF PONDER Classification: AVERAGE Rating: 0.67
 Regulated Entity: RN102739349 PONDER WWTP Classification: AVERAGE Site Rating: 0.87
 ID Number(s): WASTEWATER PERMIT WQ0011287003
 WASTEWATER PERMIT TPDES0123862
 WASTEWATER PERMIT TX0123862
 WASTEWATER EPA ID TX0123862
 Location: Approximately 2,500 feet southeast of the intersection of FM 2499 and FM 156, approximately 1,200 feet east of FM 156 and 1,600 feet south of FM 2499 in Denton County Texas Rating Date: 9/1/2006 Repeat Violator: NO
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: March 02, 2007
 Agency Decision Requiring Compliance Enforcement
 Compliance Period: March 02, 2002 to March 02, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/26/2003	(328761)
2	07/28/2003	(328763)
3	08/19/2003	(143024)
4	08/29/2003	(328764)
5	08/31/2003	(328765)
6	09/26/2003	(249710)
7	10/22/2003	(328766)
8	11/20/2003	(328767)
9	12/15/2003	(328768)
10	01/07/2004	(328769)
11	02/17/2004	(328759)
12	02/29/2004	(328760)
13	04/21/2004	(367899)
14	05/24/2004	(367900)
15	06/21/2004	(328762)
16	07/16/2004	(367901)
17	08/20/2004	(367902)
18	09/20/2004	(367903)
19	11/01/2004	(367904)

20 12/03/2004 (390526)
 21 12/16/2004 (390527)
 22 01/31/2005 (390528)
 23 03/02/2005 (428016)
 24 04/11/2005 (428017)
 25 05/31/2005 (428018)
 26 07/07/2005 (428019)
 27 07/28/2005 (447985)
 28 09/29/2005 (447986)
 29 10/03/2005 (493438)
 30 10/27/2005 (493439)
 31 11/28/2005 (493440)
 32 12/20/2005 (493441)
 33 01/27/2006 (493442)
 34 02/27/2006 (493437)
 35 04/03/2006 (506759)
 36 05/02/2006 (506760)
 37 05/25/2006 (506761)
 38 06/22/2006 (506762)
 39 07/24/2006 (528902)
 40 08/28/2006 (528903)
 41 09/27/2006 (528904)
 42 02/20/2007 (538895)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	08/19/2003	(143024)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)			
Description:	Failure to install an RPZ backflow prevention device on the main line to the WWTP.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C)[G]			
Description:	Complete failure to submit annual sludge reports.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5)			
Description:	Failure to prevent unauthorized discharges in the collection system.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 317 317.4(a)(5)			
Description:	Failure to have backup power for the facility.			
Date:	03/31/2004	(367899)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2005	(428017)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	04/30/2005	(428018)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2005	(493440)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2005	(493442)		
Self Report?	YES		Classification	Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2006 (506759)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2006 (506760)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2006 (506761)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2006 (506762)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TOWN OF PONDER
RN102739349**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0289-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Town of Ponder ("the Town") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Town appear before the Commission and together stipulate that:

1. The Town owns and operates a wastewater treatment facility located approximately 2,500 feet southeast of the intersection of Farm-to-Market ("FM") Road 2499 and FM Road 156, approximately 1,200 feet east of FM Road 156 and 1,600 feet south of FM Road 2499 in Denton County, Texas (the "Facility").
2. The Town has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Town agree that the Commission has jurisdiction to enter this Agreed Order, and that the Town is subject to the Commission's jurisdiction.
4. The Town received notice of the violations alleged in Section II ("Allegations") on or about February 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Town of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Five Hundred Dollars (\$4,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Town has paid Three Thousand Six Hundred Dollars (\$3,600) of the administrative penalty

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and Nine Hundred Dollars (\$900) is deferred contingent upon the Town's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Town fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Town to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Town have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Town has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Town is alleged to have failed to comply with permit effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11287003, Effluent Limitations and Monitoring Requirements, Nos. 1 and 2, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on February 1, 2007 as indicated in the table below.

EFFLUENT PARAMETERS

Permit Limit

<i>Month/Year</i>	NH3-N Daily Average	NH3-N Daily Average	TSS Daily Average	Chlorine Residual Maximum
Dec-05	2 mg/L	3.8 lbs/day	15 mg/L	4.0 mg/L
Feb-06	2.3	c	c	c
Mar-06	6.07	4.95	c	c
Apr-06	4.2	c	c	c
Oct-06	5.31	c	c	4.8
Oct-06	c	c	19.75	c

lbs/day = pounds per day

mg/L = milligrams per liter

c = compliant

The following information was obtained from the review of the records of the [redacted] and is being provided to you for your information. This information is being provided to you in confidence and is not to be disseminated outside of your organization.

The information provided to you is for your information only and is not to be used for any other purpose. It is your responsibility to ensure that this information is handled in accordance with applicable laws and regulations.

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APPENDIX A

The following information was obtained from the review of the records of the [redacted] and is being provided to you for your information. This information is being provided to you in confidence and is not to be disseminated outside of your organization.

APPENDIX B

Item	Description	Location	Accession Number
1	[redacted]	[redacted]	[redacted]
2	[redacted]	[redacted]	[redacted]
3	[redacted]	[redacted]	[redacted]
4	[redacted]	[redacted]	[redacted]
5	[redacted]	[redacted]	[redacted]
6	[redacted]	[redacted]	[redacted]
7	[redacted]	[redacted]	[redacted]
8	[redacted]	[redacted]	[redacted]
9	[redacted]	[redacted]	[redacted]
10	[redacted]	[redacted]	[redacted]

III. DENIALS

The Town generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Town pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Town's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Town of Ponder, Docket No. 2007-0289-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Town shall undertake the following technical requirements:

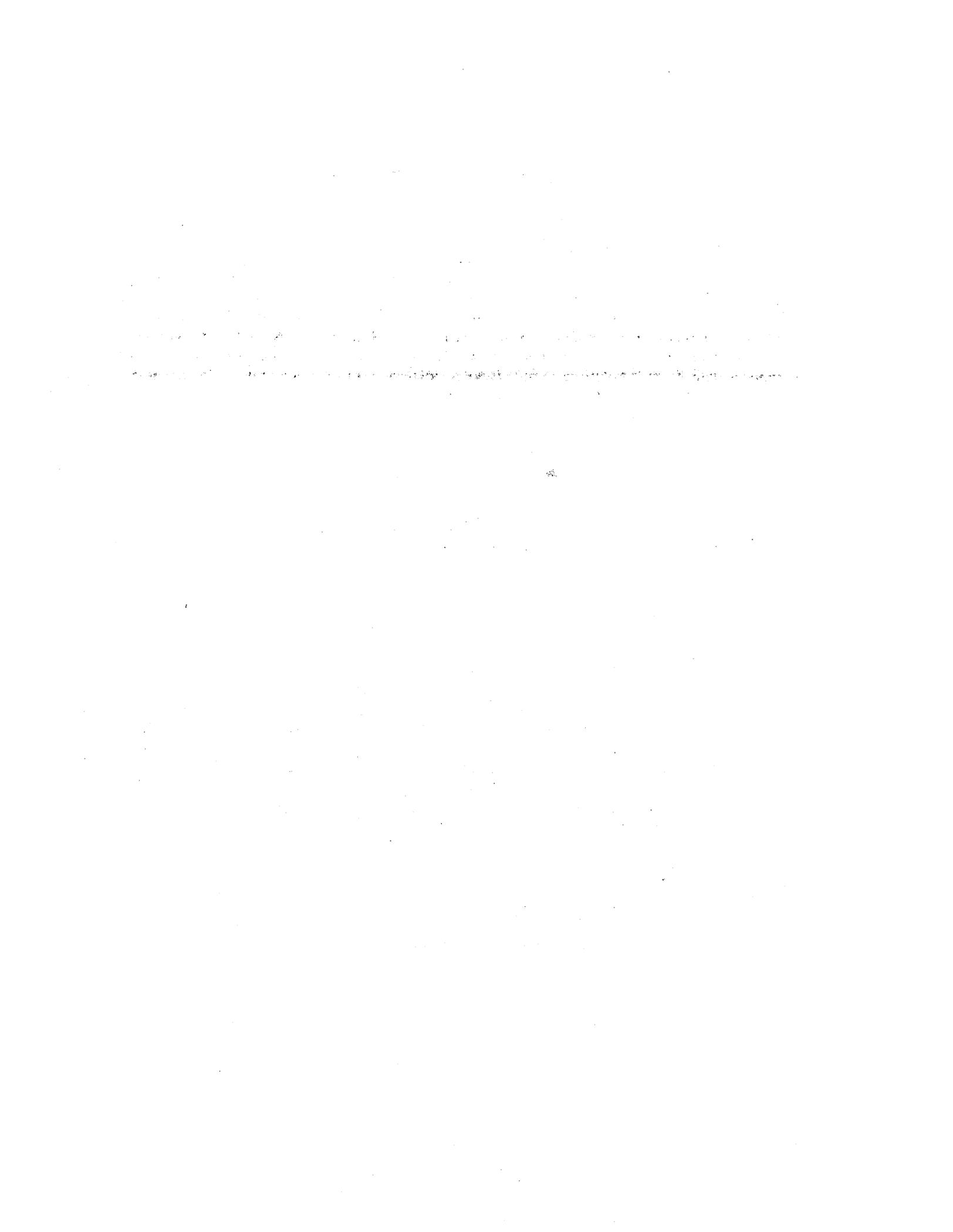
Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with TPDES Permit No. 11287003, Effluent Limitations and Monitoring Requirements. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:



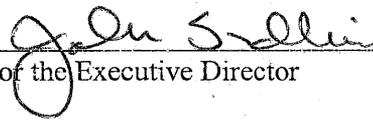
Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118

3. The provisions of this Agreed Order shall apply to and be binding upon the Town. The Town is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Town fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Town's failure to comply is not a violation of this Agreed Order. The Town shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Town shall notify the Executive Director within seven days after the Town becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Town shall be made in writing to the Executive Director. Extensions are not effective until the Town receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Town in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Town, or three days after the date on which the Commission mails notice of the Order to the Town, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/16/2007

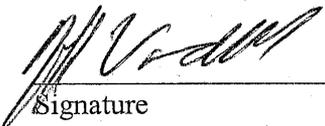
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

5-10-07

Date

Jeff Ward

Name (Printed or typed)
Authorized Representative of
Town of Ponder

Mayor

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

